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SUPREME COURT, U.S.

82-5744

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1982

No. 82-

DOUGLAS RAY MEEKS,

Petitioner,

-v-

LOUIE L. WAINWRIGHT,

Respondent.

FIRST SUPPLEMENT TO PETITION FOR WRIT OF CERTIORARI

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The opinion of the Supreme Court of Florida of which petitioner here seeks review has been published in Volume 418 So.2d at page 987 (Fla. 1982) (rehearing denied September 13, 1982).

STATEMENT OF THE CASE

On November 8, 1982, petitioner filed an "Amended Petition for a Writ of Habeas Corpus", together with a motion for an Order staying his execution, in the United States District Court for the Northern District of Florida, in Tallahassee, Florida.

On November 10, 1982, United States District Judge Maurice M. Paul entered an Order staying petitioner's execution; a copy of the order is attached as Appendix F to the Petition for Writ of Certiorari.

Respectfully submitted,

Stephen Stitt

STEPHEN STITT
86 Bay Drive
Key West, Florida 33040

APPENDIX F

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

DOUGLAS RAY MEEKS,

Petitioner,

vs

LOUIS WAINWRIGHT, Secretary, Florida Department of Offender Rehabilitation, RICHARD DUGGER, Superintendant of Florida State Prison at Starke, Florida, and JIM SMITH, the Attorney General of the State of Florida,

CASE NO. TCA 82-146

Respondents.

O R D E R

Douglas Ray Meeks, petitioner in this habeas corpus proceeding, on November 8, 1982 filed his amended federal habeas corpus petition and simultaneously filed a motion for stay of execution of a death sentence set for November 16, 1982. This Court has jurisdiction to consider a stay of execution pursuant to 28 U.S.C. §2251.

This Court is of the opinion that it is legally compelled to grant the motion for stay of execution in view of the fact that one of the federal constitutional issues raised by the petitioner is identical to one heard by the Eleventh Circuit Court of Appeals sitting en banc, Ford v Strickland, ____ F.2d ____, No. 81-6209 (April 15, 1982), vacated and rehearing en banc ordered, ____ F.2d ____ (April 28, 1982) (oral argument held June 15, 1982). That Court has indicated that it is appropriate for district courts to grant stays of execution in those death cases where the petitions for writs of habeas corpus raise the issue of the Florida Supreme Court's ex parte solicitation of extra-record material. See Shriner v Wainwright, ____ F.2d ___, No. 82-5469 (11th Cir. April 20, 1982); Booker v Wainwright, ____ F.2d ___, No. 82-5468 (11th Cir. April 20, 1982); Goode v Wainwright, supra; Dobbert v Strickland, 670 F.2d 938 (11th Cir. 1982); and the cases cited therein at 670 F.2d at 940. The Eleventh Circuit has labelled the issue

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"a serious and difficult one". Goode v Wainwright, 670 F.2d 941, 942 (11th Cir. 1982). It is therefore inappropriate for this Court to reach the merits of petitioner's writ of habeas corpus until such time as the Eleventh Circuit has rendered its final decision in Ford v Strickland, supra. See Eleventh Circuit Rule 26(i) (the effect of granting a rehearing en banc is to vacate the panel opinion and to stay the mandate).

Accordingly, it is

ORDERED:

1. Petitioner's application for a stay of execution is hereby GRANTED and Petitioner's execution is hereby STAYED pending further Order of this Court;

2. Petitioner is to remain in the custody of the Superintendent of the Florida State Prison at Starke, Florida, pending further Order of this Court;

3. The Clerk of this Court shall give immediate telephonic notice to the Secretary of the Florida State Prison at Starke, Florida; to Jim Smith, the Attorney General of the State of Florida; and to Robert Graham, the Governor of the State of Florida that the Petitioner's execution is STAYED by Order of this Court, and a certified copy of this Order shall be subsequently served upon those persons by the United States Marshal.

DONE AND ORDERED in chambers at Tallahassee, Florida this 10th day of November, 1982.

Maurice M. Paul
United States District Judge